

**CHARLOTTE-MECKLENBURG PLANNING DEPARTMENT
ZONING INTERPRETATION RECORD**

Case No. ZIR-020

Subject of Policy:

Applicability of the Charlotte Zoning Ordinance regarding distributed antenna system (DAS) facilities located within a street right-of-way.

Policy:

Distributed Antenna System - Definition

A distributed antenna system (DAS) is a network of spatially separated antenna nodes which helps boost mobile broadband coverage, improves reliability in heavily trafficked areas and enhances network capacity, alleviating pressure on wireless networks when numerous users in close proximity are actively using their mobile devices simultaneously. This system can be located within buildings to boost reception and coverage within large venues (i.e. office buildings, convention centers, and stadiums) or can be located outdoors to provide stronger signal and reliable connection within a geographic area. When located outdoors, they are commonly placed in street right-of-way on top of utility poles, street light poles and traffic signal poles.

Purpose of the Zoning Ordinance

Chapter 1 of the Zoning Ordinance provides multiple purposes for zoning regulations. One is to promote public health, safety, and general welfare. This includes facilitating the efficient and adequate provision of transportation, schools, parks and other government facilities and services provided to the public. Another purpose is to preserve existing environment and/or assure the development of a future environment that realizes the greatest possible use and enjoyment of land on individual properties while balancing against the necessary protection of land on adjacent properties.

Zoning Regulates Principal and Accessory Uses

CDOT Regulates Utilities within the Street Right-of-Way

Table 9.101 of the Zoning Ordinance lists the various principal and accessory uses allowed within the zoning districts throughout the City of Charlotte's zoning jurisdiction. The Zoning Ordinance provides development standards for principal and accessory uses and/or structures located on an individual's property. Per the definitions of "principal building or structure", "principal use", and "accessory structure or use" found in Chapter 2 of the Zoning Ordinance, such structures and uses are to be located on a "lot". A "street" right-of-way is not a "lot" or "parcel" as defined by the Zoning Ordinance. Therefore, the regulations within the Zoning Ordinance apply to such uses and structures on a lot of record and not to the installation of DAS structures within a street right-of-way.


The Zoning Ordinance does regulate a limited number of principal and accessory uses and/or structures when such uses are located within a street right-of-way. Examples of such uses include accessory outdoor dining, bus stop shelters, bicycle sharing stations, and certain types of signage. The Zoning Ordinance indicates additional prescribed conditions if such uses are located within the street right-of-way. In many cases, an encroachment agreement is required to be approved in accordance with Chapter 19 (Streets, Sidewalks, and Other Public Places) of the City Code.

Section 12.110 of the Zoning Ordinance states: "Except as otherwise permitted by these regulations, no structure shall be permitted which obstructs or otherwise interferes with public use of a street right-of-way or other public easement." The Charlotte Department of Transportation (CDOT) is the City department which makes the determination as to whether a structure "obstructs or otherwise interferes with public use of a street right-of-way" on City maintained streets. Chapter 19 (Streets, Sidewalks, and Other Public Places) of the City Code indicates what obstructions and encroachments are allowed within a street right-of-way and the regulations regarding the placement of such structures so that they do not interfere with public use of a street right-of-way. This chapter also establishes that CDOT is charged with the reasonable regulation of public and private utility facilities located in the public right-of-way.

Conclusion

DAS networks, as with other obstructions and encroachments within a street right-of-way, are regulated by Chapter 19 of the Charlotte City Code (Streets, Sidewalks, and Other Public Places). The Charlotte Zoning Ordinance only applies to uses and structures on a lot of record. The Charlotte Zoning Ordinance does not indicate additional prescribed conditions for DAS networks or other public utility facilities when located within a street right-of-way. There are no regulatory conflicts between the Charlotte Zoning Ordinance and Chapter 19 of the Charlotte City Code regarding DAS networks located within the street right-of-way since the Zoning Ordinance only regulates such uses and structures on a lot.

Approval:



Approved By:
Shad Spencer
Zoning Administrator

2/2/17

Date: